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April 10, 2007

OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: May 3, 2006

Case Number: TSO-0385

This Decision concerns the continued eligibility of XXXXXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization (or "security clearance") under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As set forth below, it is my decision, based on the evidence and testimony presented in this proceeding, that the individual's access authorization should be restored.

I. Background

The individual is employed by a DOE contractor and held a security clearance at the contractor's request. In June 2005, the individual made an incident report to DOE security that disclosed allegations of child sexual abuse filed against him in March 2005, his use of antidepressants, and financial difficulties. In order to resolve the security concern arising from the incident report, DOE conducted a Personnel Security Interview (PSI) with the individual in September 2005. The PSI did not resolve the concerns and, in November 2005, a DOE consultant-psychiatrist evaluated the individual. The psychiatrist could not make a psychiatric diagnosis but opined that the individual had been and currently is a user of alcohol habitually to excess, without adequate evidence of rehabilitation or reformation.

In March 2006, DOE sent the individual a letter notifying him that his clearance was suspended and informing him how to proceed to resolve the derogatory information that had created a doubt regarding his continued eligibility for access authorization. Notification Letter (March 2, 2006). The Notification Letter stated that the derogatory information regarding the individual falls within the purview of 10 C.F.R. § 710.8 (j) and (l) (Criterion J and Criterion L). The DOE Operations Office invoked Criterion J on the basis of information that the individual has been or is a user of alcohol habitually to excess, or has been diagnosed by a board-certified psychiatrist, or other licensed physician or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse. 10 C.F.R. § 710.8 (j). In this regard, the Notification Letter cites the opinion of the DOE consultant-psychiatrist that the individual has been a user of alcohol habitually to excess without rehabilitation or reformation. The DOE Operations Office invoked Criterion L on the basis of information that the individual has engaged in unusual conduct or is subject to

circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation or duress which may cause him to act contrary to the best interests of the national security. In this regard, the Notification Letter stated: (1) that the individual filed for bankruptcy in 1989 and in October 2005, and (2) that in May 2005, allegations of sexual abuse were filed against the individual and later substantiated after an investigation.

In a letter to DOE Personnel Security, the individual exercised his right under Part 710 to request a hearing in this matter. 10 C.F.R. § 710.21(b). The Director of OHA appointed me as Hearing Officer in this case. After conferring with the individual and the appointed DOE counsel, 10 C.F.R. § 710.24, I set a hearing date. At the hearing, the DOE consultant-psychiatrist (DOE psychiatrist) testified on behalf of the agency. The individual testified on his own behalf and also elected to call his psychiatrist, his therapist and four character witnesses. The transcript taken at the hearing shall be hereinafter cited as "Tr." Various documents that were submitted by the DOE counsel during this proceeding constitute exhibits to the hearing transcript and shall be cited as "Ex." Documents submitted by the individual are cited as "Ind. Ex."

II. Analysis

The applicable regulations state that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Although it is impossible to predict with absolute certainty an individual's future behavior, as the Hearing Officer I am directed to make a predictive assessment. There is a strong presumption against the granting or restoring of a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

I have thoroughly considered the record of this proceeding, including the submissions of the parties, the evidence presented and the testimony of the witnesses at the hearing convened in this matter. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, it is my opinion that the individual's access authorization should be restored at this time because I conclude that such a restoration would not endanger the common defense and security

and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this determination are discussed below.

A. Findings of Fact

The individual was arrested as a juvenile in 1971 for possession of marijuana, but the charges were dropped when he enlisted in the Army. Ex. 40 at 6; Ex. 21. In 1974, while still in the military, he was arrested for aggravated assault after a bar fight. That case was dismissed. Ex. 40 at 10. The individual was married in 1975, and then divorced in 1982. Ex. 41 at 24. In 1982, he was arrested for driving while intoxicated (DWI) and paid a fine. *Id.* at 11-14.

The individual began working for a DOE contractor in 1984. Ex. 36. He was granted a clearance in 1985 after a PSI resolved derogatory information regarding his three previous arrests. Ex. 12-14. He married in 1986 and divorced in early 1988. Ex. 34; Ex. 41 at 24. He had a child by a cohabitant in 1989. Ex. 32. He also filed bankruptcy in 1989 because he assumed financial obligations that his second ex-wife did not pay. *Id.*; Ex. 12 at 2. The security concerns stemming from the bankruptcy were resolved during PSIs, and his access authorization was continued. Ex. 8, 11. In 2000, the individual was married for the third time. Ex. 32 at 5. He and his wife had two children, one in 2001 and the second in 2002. *Id.* The couple had marital problems and separated in November 2004. Ex. 37 (2005 PSI) at 19.

In February 2005, the oldest child of the marriage allegedly disclosed to her mother (hereinafter “the ex-wife”) and babysitter that the individual had sexually abused her. Ex. 29, page 9. The oldest child was examined at a local hospital but there were no medical indications of abuse. Ex. 29 at 9. In fact, during a “safe house” forensics interview, the child, a four-year old, spoke enthusiastically of her father. *Id.* The case was closed on March 9, 2005. *Id.* On March 14, 2005, the ex-wife took the children to a pediatrician and again accused the individual of child abuse. *Id.*; 2005 PSI at 19. She also presented the police with a stained child’s shirt, and the police sent the item to a state crime laboratory for testing. Ex. 29 at 10; 2005 PSI at 33; Ind. Ex. 1. The police took DNA samples from the individual pursuant to a search warrant. Ind. Ex. 1.

The February allegation was found to be unsubstantiated, but counseling was recommended. Ex. 30. The agency did not conduct a second safe house interview “due to the recent initial Safe House interview results.” Ex. 29 at 10. In May 2005, the child welfare agency concluded that the abuse alleged in March may have occurred, but the individual was not identified as the abuser. Ex. 29. The agency also stated that the lab results would determine if criminal charges would be filed, and until the criminal investigation was completed the individual was restricted to supervised visits with his children. *Id.* The shirt was found to be negative for the individual’s DNA, and the investigating officer determined that there was no physical evidence of criminal activity. Ind. Ex. 1. The investigation was closed and no criminal charges were filed.¹ *Id.*

¹ There was an incident report produced in the case but because the alleged victim was a minor, the report was not made available to the individual’s attorney. Ind. Ex. 1. The attorney did, however, provide the name and phone number of the policeman who investigated the case. *Id.*

In June 2005, the individual reported the use of antidepressants, allegations of child abuse and financial difficulties to DOE security. Ex. 19. DOE requested a PSI and a psychiatric evaluation as a result of the information regarding the abuse allegations and the disclosure of financial problems. Ex. 3- 5. In September 2005, DOE conducted a PSI with the individual and he agreed to a psychiatric evaluation. In October 2005, the individual filed another incident report disclosing that he had begun paying child support and was filing for Chapter 7 bankruptcy. Ex. 18.

In November 2005, a DOE consultant-psychiatrist interviewed the individual for approximately two hours and completed a report of the interview for the record. Ex. 15 (Report). According to the report, the individual told the psychiatrist that he had consumed four beers in the seven days prior to the interview and that in the past month he had consumed a total of six beers. Report at 13. The individual said that up until the month prior to the interview he had been drinking a 750 ml bottle of Amaretto each week, but he only drank at night to relax himself before going to bed. *Id.* at 13-14. In his report, the DOE psychiatrist concluded that the individual was a user of alcohol habitually to excess from 1970-1989 and also in 2005, based on the psychiatrist's calculation that the individual was intoxicated at least four times during each of those years. *Id.* at 14-15, 22-24. The psychiatrist found that the individual, who continued to drink alcohol, did not present adequate evidence of rehabilitation or reformation. Report at 22. In order to show adequate evidence of rehabilitation, the DOE psychiatrist recommended in his report that the individual either: (1) attend Alcoholics Anonymous (AA) with a sponsor at least once a week for a minimum of 100 hours in a year and abstain from alcohol for two years; or (2) complete a six-month alcohol treatment program and abstain for three years. *Id.* at 22-23. In order to demonstrate reformation, the psychiatrist recommended that the individual abstain for ten years, or abstain for two or three years if he attends one of the two rehabilitation programs. *Id.* at 23. The psychiatrist concluded that as regards the allegations of child sexual abuse, there was no evidence to allow the psychiatrist to opine that the individual had an illness or mental condition which causes or may cause a significant defect in his judgment or reliability and he could not find that the individual is a pedophile. *Id.* In December 2005, DOE suspended the individual's access authorization pending resolution of the security concerns. Ex. 2.

B. DOE's Security Concerns

The excessive use of alcohol raises a security concern because of its intoxicating effect. "Because the use of alcohol at the very least has the potential to impair a user's judgment and reliability, individuals who use alcohol to excess may be susceptible to being coerced or exploited to reveal classified matters. These security concerns are indeed important and have been recognized by a number of Hearing Officers in similar cases." *Personnel Security Hearing*, OHA Case No. VSO-0417, 28 DOE ¶ 82,798 (2001), quoting *Personnel Security Hearing*, OHA Case No. VSA-0281, 27 DOE ¶ 83,030 at 86,644 (2000). In this case, a DOE psychiatrist opined that the individual was a user of alcohol habitually to

excess. The individual also has a history of alcohol-related arrests. Therefore, DOE's security concerns are valid and the agency has properly invoked Criterion J in this case.

When an individual engages in unusual conduct, the agency properly questions his or her reliability and trustworthiness. The bankruptcy and abuse allegations create a question about the individual's actions and whether he can be trusted. Financial problems are a concern since overextended individuals are at increased risk of resorting to illegal acts to generate funds. Therefore, DOE's security concerns are valid and the agency has properly invoked Criterion L in this case. See Memorandum from Assistant to the President for National Security Affairs to Director, Information Security Oversight Office, *Adjudicative Guidelines*, Tab A, *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (December 29, 2005) ("Adjudicative Guidelines") at Paragraphs 15 and 18.

C. Hearing Testimony

1. The DOE Psychiatrist

The DOE psychiatrist testified at the beginning of the hearing that prior to the November 2005 psychiatric evaluation he had reviewed the individual's file, including Questionnaires for National Security Positions (QNSPs), a background investigation, PSIs and other information. Tr. at 14-15. After reviewing the documents, he opined that the initial issues concerning the individual were his mental health, possible use of drugs, alcohol use, and pedophilia. During the interview, the DOE psychiatrist was able to collect more information on the individual's past and present drinking habits. *Id.* at 22-25. According to the DOE psychiatrist, the individual had his last drink five days prior to the interview and he had been getting intoxicated twice a week until a couple of months prior to the interview. *Id.* at 24. Based on that information, the DOE psychiatrist determined that the individual had been a user of alcohol habitually to excess in the past, and was also drinking habitually to excess in 2005. *Id.* at 24-25. Based on the individual's history of alcohol-related arrests, the DOE psychiatrist also opined that the individual met the criteria for alcohol abuse in the past, and may be alcohol dependent now, but did not meet the criteria for a psychiatric diagnosis of alcohol dependence. *Id.* at 28. He recommended 10 years of abstinence because the individual had abstained from alcohol for a 10-year period in the past, from 1993 to 2003. *Id.* at 28, 31. The DOE psychiatrist found no mental health issues, and further concluded that 95% of "equally trained" psychiatrists would not conclude that the individual is a pedophile. *Id.* at 31. In order to show adequate evidence of rehabilitation, the DOE psychiatrist recommended that the individual attend Alcoholics Anonymous (AA) for 100 hours, obtain a sponsor and abstain from alcohol for two years, or attend a six-month alcohol treatment program and abstain for three years. *Id.* at 30. In order to show reformation, the individual must abstain for ten years. *Id.* at 30-31.

2. The Individual's Psychiatrist

The individual introduced the testimony of a child psychiatrist ("the psychiatrist" or "the individual's psychiatrist"), an expert in diagnosing child sex abuse victims and perpetrators. The psychiatrist also had some training in alcohol issues. Tr. at 53, 74-75. In May 2006,

the individual's ex-wife brought the oldest daughter to the psychiatrist for evaluation and treatment. *Id.* at 53. The child displayed aggressive, disruptive behavior and a therapist therefore had recommended that the child see a psychiatrist. *Id.* at 73. The psychiatrist met with the individual and other family members 24 times in the six months immediately preceding the hearing. *Id.* at 105. Six of those meetings were with the ex-wife. *Id.* The psychiatrist assigned an in-home therapist to help the mother manage the children because he questioned the ex-wife's ability to control the aggression of the older child. *Id.* at 105-106. Prior to meeting with the individual, the psychiatrist reviewed all visitation notes, talked to the director of therapy, talked to the individual's current therapist, and talked with the doctor who treated the child at the hospital. *Id.* at 104. Currently, the psychiatrist does parental counseling and family therapy with the individual. *Id.* at 54. In his sessions with the family, the psychiatrist saw no evidence of post traumatic stress disorder or sexualized behavior, conditions typically present in the case of an abused child. *Id.* at 73. The psychiatrist observed that the individual has a positive relationship with his children and that the children like their father. *Id.* at 104. The children now have four-hour unsupervised visits at the individual's home. *Id.* at 54.

According to the psychiatrist, there was a "safe house interview" with the children, conducted by a state agency in February 2005.² *Id.* at 107-108. As a result of the interview, the investigation was closed and no criminal charges were pursued. The doctor also talked to the state agency social worker in July 2006 about the case, and the worker told him that there was no case, but that the mother "was never going to give it up." *Id.* at 106. The doctor considered the case closed because no criminal charges were brought against the individual. *Id.* at 106. However, the psychiatrist testified that the mother continues to present derogatory information as if there were a criminal matter under investigation. *Id.* at 107-108.

The psychiatrist testified about his serious concerns with the mother's behavior. He became concerned about the ex-wife after their third session. *Tr.* at 55. The ex-wife told him that the day that she received the letter stating that the original allegation was determined to be unsubstantiated, she took the children to the pediatrician with a new story and new allegation. *Id.* at 55-56. The psychiatrist then became suspicious because the ex-wife has stated that "she never wants the children to ever see their father again." *Id.* at 56. The psychiatrist observed "oppositional defiant behavior and power struggles with the mother and a girl that wanted to see her father." *Id.* at 74. He concluded that the older girl acted out because she wanted to spend more time with her father. *Id.* The youngest child arrived at her father's house for her latest visitation with two black eyes. The mother had reported that the older child was fighting the younger and also attacking her mother, and the psychiatrist questioned the wife's ability to control the aggression of her older child. *Id.* at 105-106. The older daughter had called her father to report that her mother was hitting her. As a result of these recent incidents, the individual's psychiatrist made a report to the local child welfare agency the night before the hearing. *Id.* at 106.

² The safe house interview was held "significantly earlier" than the psychiatrist's July 2006 conversation with the state social worker, and was considered a "wrap up" of the case. *Tr.* at 107-108. During a safe house interview, the team of professionals assigned to a child abuse case decides whether or not that case will go forward. *Id.* at 107.

Like the DOE psychiatrist, the individual's psychiatrist was unable to arrive at any alcohol-related medical or psychiatric diagnosis. He opined that the individual had been drinking at home, but only because of the extremely stressful events in his life. *Id.* at 58. According to the psychiatrist, that is a very different pattern than his drinking in the past, e.g., drinking in public, getting DWIs and getting into bar fights. *Id.* at 102-103. The psychiatrist stressed the importance of the individual's current intensive counseling therapy and substance abuse-related counseling program to his rehabilitation and reformation. *Id.* at 81. He considered the individual's drinking to be far below the threshold of problem drinking that requires 10 years of abstinence. *Id.* The individual is working the first step and has six months of abstinence. *Id.* at 82.

According to the psychiatrist, the individual shows consistency, reliability, and good judgment. The psychiatrist found no evidence of any criminal sexual contact. *Id.* The psychiatrist also concluded that the individual is financially responsible, based on his long employment and good overall credit at this time. The individual has been subjected to severe stress over the past two years, but has consistently attended appointments and cooperated with his counselors. The individual's psychiatrist agrees with the DOE psychiatrist that there is no evidence of a mental disorder that could impair his judgment or reliability. *Id.* at 56.

3. The Individual's Counselor

The individual's counselor testified that she is a licensed mental health provider with no special training in alcohol or addiction. Tr. at 110-112. She has worked with the individual for four years. *Id.* at 113. During their sessions, they discuss marriage, his relations with his children, stress and anxiety. They meet for one hour once a month. The sessions began weekly, but the number declined as his stress level appeared to decline. *Id.* In October 2004, she received telephone calls from a state child protective agency asking for her observations, and she also participated in meetings. *Id.* at 114. The conclusion was that abuse occurred, but the individual was not the perpetrator. *Id.* at 115. In her opinion, there was no child abuse. *Id.* She found the wife to be manipulative, because the wife lied intentionally to the individual and tried to get the therapist involved. *Id.* at 115. No criminal charges were filed against the individual, but he feels sad because he was unable to see his children outside of supervised visits. *Id.* at 116. She is aware that he had significant financial stressors but he appears committed to meeting his future financial obligations. *Id.* at 117-119.

4. Other Witnesses

The individual presented four character witnesses at the hearing. The first witness was the mother of a teen-age girl who is a close friend of the individual's oldest daughter.³ She has known the individual and his daughter for eight years, and the girls played on the same sports team. *Id.* at 121. During the eight years of their friendship, she has socialized with

³ The individual met a woman in 1988 and they began living together after his divorce. Ex. 39 (1991 PSI) at 28. He had a daughter by the woman in 1989, they broke up in 1991 and the mother moved out. 1991 PSI at 24, 25. He has raised this child, now a teenager, by himself. *Id.*

the individual, and he has attended holiday dinners at her home. *Id.* at 122. Her daughter has spent the night at the individual's home, and the individual's daughter has spent the night at the witness' home. She testified that the individual has a good relationship with his daughter, who is very involved in sports, and the individual travels with the team when they go to out of town tournaments. *Id.* at 123. She is aware of the child abuse allegations, but she trusts the individual and would not let her daughter spend the night at his home if she had any reservations about the individual's behavior around children. *Id.* at 124. She has offered the individual alcohol, but he consistently refuses. *Id.* at 125. She knows that he is appalled by the allegations. He is a very attentive father, and always asks the witness if he is attentive enough to his oldest daughter because of the amount of time he has to spend dealing with problems with his other children. She has never seen him drink, even around other adults. *Id.* at 127.

The second character witness has known the individual for 16 years, but they do not work together. *Id.* at 130. He has never seen the individual drink. *Id.* at 131. They belong to a men's group and go to lunch together, and do not consume alcohol during group meetings or lunches. *Id.* at 132. In 2005, the individual told him that he would drink in order to relax and fall asleep, when he was going through his divorce. *Id.* at 133. The witness considers the individual to be honest, trustworthy and a good father. *Id.* at 134. He has faced his problems courageously. *Id.* The witness observed that "things seem to be going better" for the individual this year. *Id.* at 135.

The third witness has known the individual for 21 years and works closely with him. *Id.* at 137. He knows the individual's oldest daughter, but not the ex-wife. However, the ex-wife called the witness' wife in January 2006 and made accusations against the individual. *Id.* at 139. He knows that the individual's older daughter is doing well in school and in sports. He described the individual as "upset" by the allegations because he is trying to be a good father. *Id.* at 141. The witness testified that the children have resumed visits with their father recently. *Id.* He has never seen the individual drink alcohol. *Id.* at 141-142. The witness grew up in a family of alcoholics and feels that he would be able to recognize if the individual had a problem with alcohol. *Id.* at 142. He knows that the individual has a problem sleeping. *Id.* According to the witness, the individual is a good employee and father, and a mild-mannered person. *Id.* at 142-144. He described the individual as honest, trustworthy, resilient and handling his financial problems very well. *Id.* at 144.

The final character witness was the individual's manager, who has known the individual for 22 years. *Id.* at 146. He considers him an excellent employee who pays great attention to detail and an honest person with high integrity. *Id.* at 147. The witness has managed alcoholic employees in the past and asserted that the individual does not behave like those employees. *Id.* at 148. The individual is "going through hell" now with his divorce, and the allegations, but the witness had not observed any excess drinking by the individual in social situations. *Id.* at 150. According to the manager, the ex-wife's allegations do not "ring true" with the individual's character. *Id.* at 151. He knows that the individual has been re-investigated every five years, and contends that any alleged pedophilia would have been exposed earlier, if it existed at all. *Id.* at 151-152. The witness also knows that the individual has a lot of expenses, and thinks that bankruptcy was his only option. The

individual has a good character and has continued to give his best at work despite all of his personal problems. *Id.* at 154.

5. The Individual

The individual testified at length about his bankruptcy case, which he filed in October 2005. Tr. at 158. Despite his financial problems, he has maintained the payments on his house, and has put the house on the market. *Id.* at 159-160. During his testimony, the individual and the DOE counsel reviewed every line of his latest credit report, and determined that the accounts excluded from the bankruptcy are all current. Tr. at 158-171; Ind. Ex. 2. He is current on his car payment, has paid his attorney fees, and continues to pay his child support and daycare obligations on time. *Id.* at 171.

As for mental health treatment, he is currently in treatment with his psychiatrist, who testified at the hearing. He will start an alcohol program through his employer soon. *Id.* at 173. He denies abusing his children, and denies that he is a pedophile. *Id.* at 174. He had his last drink six months prior to the hearing, and had not consumed any alcohol six months prior to that. *Id.* at 176. He has not been intoxicated in the last year and has no desire for alcohol. He testified that he has no intent to drink in the future. *Id.* at 176-181.

6. DOE Psychiatrist Updated Testimony

At the end of the hearing, the DOE psychiatrist stated that he has learned substantial new information during the hearing. *Id.* at 184-186. He concluded that at the time of the evaluation, he had underestimated the gravity of the stressors that were present in the individual's life – e.g., he was facing the possibility of two felony charges, he was embroiled in a bitter divorce, and he had not seen his daughters in six months. The DOE psychiatrist concluded that the fact that the individual did all of his drinking at home in order to fall asleep was mitigating because that behavior did not present the security concerns of an individual who drinks outside of his home and could disclose classified information to others around him. *Id.* at 184. Moreover, the DOE psychiatrist talked with the individual at length during a break in the hearing, and that conversation convinced him that the individual had no intent to drink in the future. In conclusion, the DOE psychiatrist testified that the individual has shown adequate evidence of reformation from drinking alcohol habitually to excess. *Id.* at 186.

D. Mitigating Evidence

1. Alcohol Use

In a Part 710 proceeding, the Hearing Officer gives great deference to the expert opinions of mental health professionals regarding rehabilitation or reformation. See *Personnel Security Hearing*, Case No. VSO-0476, 28 DOE ¶ 82,827 (2001). In this case, the DOE psychiatrist revised his opinion after carefully considering all of the testimony at the hearing, and concluded that the individual has now presented adequate evidence of reformation from drinking alcohol habitually to excess. The DOE psychiatrist explained that he did not fully appreciate the stress level that the individual faced, or the decreased

security concerns of drinking alone compared to drinking outside one's home. In addition, the psychiatrist found the individual's declaration that he does not intend to drink again to be persuasive. The individual's psychiatrist, who has spent many hours with the individual in the six months prior to the hearing, found no evidence of any alcohol problem. The individual's therapist has counseled him for four years and also found no evidence of any alcohol problem.

I agree with the conclusion of the DOE psychiatrist that the individual has been reformed from drinking habitually to excess. In addition to the reasons presented above, the individual presented convincing evidence of six months of sobriety, and has not had an alcohol-related legal incident in 24 years. The character witnesses confirmed his account of limiting his drinking to his home. The individual has a continuing relationship with a therapist and a psychiatrist, and both are aware of his demonstrated intent to remain abstinent. They are available to assist him in maintaining sobriety, if necessary. Based on the above, I find that the individual has mitigated the security concerns of Criterion J regarding his alcohol use.

2. Allegations of Child Molestation

Both psychiatrists considered themselves experts in pedophilia and both concluded that there was no evidence in the record that the individual is or ever was a pedophile. Tr. at 74. The individual's psychiatrist offered the most credible testimony because he had treated the entire family for six months, and had many sessions with the ex-wife and the children. His testimony was not only credible but also very persuasive because even though he was initially retained by the ex-wife, he had become a strong supporter of the individual after observing the family during 24 sessions in six months and testified on his behalf at the hearing. The individual's psychiatrist testified that the ex-wife wanted to keep the children from their father and was trying to manipulate and prolong the child abuse case to her advantage.

I am also persuaded by the overwhelming and sincere testimony about the good character and trustworthiness of the individual. The witnesses had observed the individual as a single father raising a well-adjusted teen-age daughter, and a person who continued to perform well at work despite the personal tumult he faced at home. One witness was especially credible – the mother of a teenager who is a close friend of the individual's teenage daughter. She was a friendly, sensible and compassionate mother who had known the individual and his daughter for 8 years. Despite the allegations of child molestation, she had no hesitation about letting her daughter spend the night at the individual's home. Finally, it is very significant that no criminal charges were brought against the individual and the investigation was closed. Thus, I find that the individual has mitigated the security concerns of Criterion L related to the allegations of child sexual abuse.⁴

⁴ I also find that there is a minimal risk that disclosure of these allegations could cause the individual to be subject to pressure, coercion, exploitation or duress that could cause him to act contrary to the best interests of the national security. The record confirms that he has not hidden the allegations from his friends and colleagues.

3. Financial Issues

I find that the individual has mitigated the security concern raised by filing for bankruptcy in 1989 and in 2005. A review of the record supports the conclusion that these two events do not demonstrate a pattern of financial irresponsibility on the part of the individual. Rather, they are reasonable responses to financial difficulties caused by his divorces, and the individual acted responsibly under the circumstances in both instances. According to the Adjudicative Guidelines, security concerns caused by the failure or inability to meet financial obligations could be mitigated if “. . . the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, *divorce* or separation), and the individual acted responsibly under the circumstances.” Adjudicative Guidelines, Paragraph 20 (b) (emphasis added).

This case is easily distinguished from previous cases that describe individuals who demonstrate financial irresponsibility by cultivating habits of excessive spending and falling into debt by purchasing frivolous items they cannot afford. See *Personnel Security Hearing*, Case No. TSO-0264, 29 DOE ¶ ____ (March 16, 2007) (individual filed for Chapter 7 bankruptcy in 1990 due to credit card purchases and accumulated additional \$56,000 in consumer debt by 2005); *Personnel Security Hearing*, Case No. TSO-0217, 29 DOE ¶ 82,831 (2005) (individual with multiple bankruptcy filings and delinquent taxes continued to amass consumer debt); *Personnel Security Hearing*, Case No. TSO-0212, 29 DOE ¶ 83,002 (2007) (individual with two bankruptcy filings and foreclosure admitted living beyond means and continued to purchase luxury items). In contrast to the cases cited above, the witnesses in this case testified that the individual was a financially responsible person who had fallen onto financial hard times because of his recent divorce. He currently bears expenses for two households, with child support, day care, and attorney fees for the divorce and also for his bankruptcy. At the hearing, the DOE counsel and the individual reviewed every page of a recent credit report, and the individual was current on those items that were not resolved by the bankruptcy. Thus, I find that the Criterion L security concern is mitigated by evidence that the bankruptcies resulted from conditions largely beyond the individual’s control, i.e., his divorces, and that the individual acted responsibly under the circumstances. He has kept current with all accounts that were not covered by the bankruptcy, and continues to meet his financial obligations. After careful consideration of the record and testimony, and observation of the individual’s demeanor at the hearing, I am persuaded that he will remain financially responsible.

III. Conclusion

After evaluating the evidence in this case, I find that the individual has mitigated the security concerns of Criteria J and L. 10 C.F.R. § 710.8 (j), (l). Thus, in view of Criteria J and L and the record before me, I conclude that restoring the individual’s access authorization would not endanger the common defense and security and would be consistent with the national interest. Accordingly, I find that the individual’s access authorization should be restored at this time. Any party may seek review of this Decision

by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Valerie Vance Adeyeye
Hearing Officer
Office of Hearings and Appeals

Date: April 10, 2007